


REMARKS

The specification has been amended to include the NCIMB deposit information. The receipts from NCIMB are attached. Claims 1, 9 and 55 have been amended to state the NCIMB accession number. No new matter is included in these amendments.

Applicant respectfully requests entry of the foregoing amendments to the specification and claims.

RESPECTFULLY SUBMITTED,					
NAME AND REG. NUMBER	Kenyon L. Schuett, Reg. No. 44,324				
SIGNATURE				DATE	October 28, 2004
Address	Jondle & Associates P.C. Suite 200, 9085 East Mineral Circle				
City	Centennial	State	CO	Zip Code	80112
Country	U.S.A.	Telephone	303-799-6444	Fax	303-799-6898

**BUDAPEST TREATY ON THE INTERNATIONAL
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS
FOR THE PURPOSES OF PATENT PROCEDURE**

Harris Moran Seed Co
P O Box 4938
Modesto
CA 95352-4938
USA

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT
issued pursuant to Rule 7.1 by the
INTERNATIONAL DEPOSITARY AUTHORITY
identified at the bottom of this page

NAME AND ADDRESS
OF DEPOSITOR

I. IDENTIFICATION OF THE MICROORGANISM

Identification reference given by the
DEPOSITOR:

Lycopersicon esculentum 294

Accession number given by the
INTERNATIONAL DEPOSITARY AUTHORITY:

NCIMB 41252

II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION

The microorganism identified under I above was accompanied by:

☐ a scientific description

☒ a proposed taxonomic designation

(Mark with a cross where applicable)

III. RECEIPT AND ACCEPTANCE

This International Depositary Authority accepts the microorganism identified under I above, which was received by it on
15 October 2004 (date of the original deposit)¹

IV. RECEIPT OF REQUEST FOR CONVERSION

The microorganism identified under I above was received by this International Depositary Authority on
(date of the original deposit) and a request to convert the original deposit to a deposit under the Budapest Treaty was received by it
on (date of receipt of request for conversion)

V. INTERNATIONAL DEPOSITARY AUTHORITY

Name: NCIMB Ltd.,

Address :Ferguson Building, Craibstone Estate,
Bucksburn, Aberdeen,
AB21 9YA
Scotland.

Signature(s) of person(s) having the power to represent the
International Depositary Authority or of authorised
official(s):



Date: 27 October 2004

¹ Where Rule 6/4(d) applies, such date is the date on which the status of International Depositary Authority was acquired.

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INTERNATIONAL FORM

VIABILITY STATEMENT
issued pursuant to Rule 10.2 by the
INTERNATIONAL DEPOSITARY AUTHORITY
identified on the following page

NAME AND ADDRESS OF THE PARTY
TO WHOM THE VIABILITY STATEMENT
IS ISSUED

I. DEPOSITOR	II. IDENTIFICATION OF THE MICROORGANISM						
Name: AS ABOVE Address:	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: NCIMB 41252 Date of the deposit or of the transfer ¹ : 15 October 2004						
III. VIABILITY STATEMENT							
The viability of the microorganism identified under II above was tested on 15 October 2004 ² . On that date, the said microorganism was:							
<table style="width: 100%;"><tr><td style="width: 5%; text-align: center;"><input checked="checked" type="checkbox"/></td><td style="width: 5%; text-align: center;">³</td><td style="width: 90%;">viable</td></tr><tr><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;">³</td><td>no longer viable</td></tr></table>		<input checked="checked" type="checkbox"/>	³	viable	<input type="checkbox"/>	³	no longer viable
<input checked="checked" type="checkbox"/>	³	viable					
<input type="checkbox"/>	³	no longer viable					

¹ Indicate the date of the original deposit or, where a new deposit or a transfer has been made, the most recent relevant date (date of the new deposit or date of the transfer).

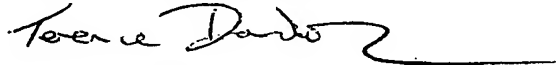
² In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test.

³ Mark with a cross the applicable box.

IV. CONDITIONS UNDER WHICH THE VIABILITY TEST HAS BEEN PERFORMED⁴

V. INTERNATIONAL DEPOSITARY AUTHORITY

Name: NCIMB Ltd.,

Address: Ferguson Building, Craibstone Estate,
Bucksburn, Aberdeen,
AB21 9YA
Scotland.Signature(s) of person(s) having the power
to represent the International Depositary
Authority or of authorised official(s):

Date: 27 October 2004

⁴ Fill in if the information has been requested and if the results of the test were negative.

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RECOGNITION OF THE DEPOSIT OF MICROORGANISMS
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NAME AND ADDRESS
OF DEPOSITOR

I. IDENTIFICATION OF THE MICROORGANISM

Identification reference given by the
DEPOSITOR:

Lycopersicon esculentum 294*01D3144

Accession number given by the
INTERNATIONAL DEPOSITARY AUTHORITY:

NCIMB 41253

II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION

The microorganism identified under I above was accompanied by:

☐

a scientific description

☒

a proposed taxonomic designation

(Mark with a cross where applicable)

III. RECEIPT AND ACCEPTANCE

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Name: AS ABOVE Address:	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: NCIMB 41253 Date of the deposit or of the transfer ¹ : 15 October 2004
III. VIABILITY STATEMENT	
The viability of the microorganism identified under II above was tested on 15 October 2004 ² . On that date, the said microorganism was:	
<div style="display: flex; align-items: flex-start;"><div style="margin-right: 10px;"><input checked="checked" type="checkbox"/></div><div>³ viable</div></div> <div style="margin-top: 10px;"><div style="display: flex; align-items: flex-start;"><div style="margin-right: 10px;"><input type="checkbox"/></div><div>³ no longer viable</div></div></div>	

¹ Indicate the date of the original deposit or, where a new deposit or a transfer has been made, the most recent relevant date (date of the new deposit or date of the transfer).

² In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test.

³ Mark with a cross the applicable box.

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Address: Ferguson Building, Craibstone Estate,
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Authority or of authorised official(s):

Date: 27 October 2004

⁴ Fill in if the information has been requested and if the results of the test were negative.